

Illinois YMCA Youth and Government  
Bench Memo Best Practices  
March 15, 2008

Since many of you will (hopefully) be returning to the Y&G Judicial program next year, we'd like to provide everyone a set of common recommendations based on what we saw in your bench memos. Hopefully, this will be a handy reference for you so that you can make improvements next year. The recommendations are broken down based on the scoring categories for the bench memo.

## Format and Appearance

**Proper citation of cases:** The proper way to fully cite a case is like this:

People v. Holman, 103 Ill.2d 133, 469 N.E.2d 119, 82 Ill.Dec. 585 (1984)

Case name, official reporter(s), unofficial reporter(s), (year opinion was issued). At the top of the first page of the opinion, it usually even tells you exactly how to cite it. The full citation of a case is only needed the first time you refer to a case. Afterwards, only the official reporter is needed.

We strongly encourage the use of “jump cites” (citations to a specific page) when quoting from a case. This makes it easier to locate the specific text you've cited within the body of the opinion. Here are the ways to do it:

- 1) The first time you cite a case, you should provide the jump cites for all reporters. In the printed cases we provide you, you'll notice things like \*135, \*\*121, \*\*\*587 scattered around the text. These tell you where the page breaks are at in the printed opinion for the three reporters. In this case, \*135 is referring to the Ill.2d cite (first in the list), \*\*121 the N.E.2d cite (second in the list), \*\*\*587 the Ill.Dec. cite (3<sup>rd</sup> in the list). So, the full cite would be: People v. Holman, 103 Ill.2d 133, 135, 469 N.E.2d 119, 121, 82 Ill.Dec. 585, 587 (1984).
- 2) Anytime after a period where the name of the case is not in the sentence the short cite should consist of the name of the case and the citation.

For example: ...last words of sentence. People v. Holman, 103 Ill.2d at 135.

- 3) When the name of the case is used in the sentence, the citation should be placed at the end of the sentence.

For example: It was held in People v. Holman that “evidence of past offenses could not be used for something or other,” unlike in the case at bar. 103 Ill.2d 135.

## **Block quoting:**

Any quotation that is 50 words or more should be block-quoted. Block quotes should be indented 0.5” from the left margin and single-spaced, with a blank line before and after. Additionally, you do not need quotation marks around a block quote – the indentation/spacing serves to set it apart as a quotation. For example:

Defendant also asserts that the statement was too indefinite because the declarant did not identify her assailant but only stated that "He" killed "me". Defendant cites to our supreme court's opinion in People v. Scott (1972), 52 Ill.2d 432, 438, 288 N.E.2d 478, for the proposition that the testimony recounting the declaration cannot be conjectural, and the declaration must be positive and definite. In Scott, the declarant could barely speak and, in essence, mumbled the declaration. The witness was not sure what the declarant had said and could only speculate as to the actual statement. It is in that context that the court required the declaration to be positive and definite. People v. Cobb, 542 N.E.2d 1171, 186 Ill.App.3d 898 (Ill.App. 2 Dist., 1989)

You can then continue with your argument.

**Fonts:** The preferred font/size is Times New Roman 12 point. Not 10 point. Not 14 point. Double-spaced (not triple-spaced). Don't change fonts or sizes. The only things that change during your brief are the line spacing and indents when you block-quote.

## **Writing Quality:**

**Clear and concise writing:** Don't try to sound too fancy when you're writing your brief – professional language should be easy to understand. We strongly suggest you have an English/writing teacher review your brief for clarity. Another good way to see if your writing is clear is to read it aloud to someone – ideally someone who's not working on the case – if your argument makes sense to them, you're on the right track.

**Other grammar/punctuation:** There were a lot of comma splices, that appeared in your memos. (the previous sentence is an example). MS Word is decent at catching these with the green underlines. Again, the assistance of a writing teacher would be beneficial.

**Spell-checking:** MS Word isn't perfect. Trial, not trail. Whose vs. who's. You get the picture – there were a lot of these.

**Proper tone:** When you're making a legal argument, professional tone is important. First/second person (I/we/you) is not appropriate. Also, consider the phrasing you use – stating that an opinion you hold about the interpretation of your case as “absolutely indisputable” is not suitable.

## Legal Reasoning:

**IRAC:** Issue, Rule, Application, Conclusion. You need all of them. Several memos did not actually cite from any of the 4 cases. You need to analyze each case regardless of whether it goes for you or against you.

**Cases within cases:** When you have a piece of caselaw that comes from another ruling, cite it within the context of one of the four cases we give you. For example, several cases this year reference the US Supreme Court case of Brady v. Maryland. Here is one example of how to cite Brady from within another case (and assuming this is the first time you cited Payne):

We now hold that the suppression by the prosecution of evidence favorable to and accused upon request violates due process where the evidence is material either to guilt or punishment, irrespective of the good faith or bad faith of the prosecution. People v. Payne, 44 Ill.App.3d 502, 505, citing Brady v. Maryland, 373 U.S. 83

**Cases where the ruling is not in your favor:** These cases still need to be given a thorough analysis. Your opponent will certainly be giving those cases their full attention, so you would be well-served to do the same. You'll be better prepared for your oral argument if you know how your opponent will argue the cases.

**Logical flow:** Don't start off your argument with a case/rule of law that goes against you. Realizing that in a typical year each issue will have two cases in favor of each side, you should start with a case that goes in your favor. Remember the idea of the "general rule of law" – what is the most general statement of law you could make about your issue? For example, in Fletcher issue 2 Brady v. Maryland contains what the defendant-appellant would argue is the general rule of law (again, remember to cite it from within the 4 cases we give you). From the general rule of law, you should then filter down to the specifics that are most relevant to the case. If Brady gives the general rule of law, then you might use specifics from Payne (or another case) which have a similar fact pattern.

Without saying that this is the "one true way" to decide how to order your cases, here's a simple outline that could help to produce a persuasive argument that is somewhat more "elegant" than just doing IRAC four times:

- 1) Constitutional overview of the issue and its importance (I)
- 2) Cite the case(s) that provide your general rule of law and apply them to the case at bar (R A C)
- 3) Cite and distinguish the case(s) that provide what you expect to be your opponent's general rule of law. (This has the side benefit of better preparing you for oral argument, because you'll understand the caselaw from your opponent's perspective as well) (R A C again)
- 4) Cite and apply caselaw that is even more specific than the general rule of law to your issue. On the Stevens case this year, the defendant-appellant might use Miranda (from one of the 4 cases) as the general rule of law governing custodial interrogation, then use

one of the cases that discusses intoxication due to alcohol consumption, such as Roy. (R A C)

- 5) If you find any caselaw your opponent would use to refine the general rule of law (what they would be using for step #4), cite and distinguish it as well. (R A C)
- 6) Summarize and provide an overall conclusion (C)